

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

MICK F. LAFEVERS d/b/a)
TOTE-A-POKE,)
)
 Plaintiff,)
)
 vs.) Case No.: 17-CV-320-SPS
)
 FIRST DATA MERCHANT SERVICES)
 LLC f/k/a FIRST DATA MERCHANT)
 SERVICES CORPORATION,)
)
 Defendant.)

NOTICE OF REMOVAL

Defendant First Data Merchant Services LLC f/k/a First Data Merchant Services Corporation¹ (“First Data”), pursuant to 28 U.S.C. §§ 1441 and 1446, hereby files this Notice of Removal of this action from the District Court of LeFlore County, State of Oklahoma, to the United States District Court for the Eastern District of Oklahoma, and in support states as follows:

1. Plaintiff Mick F. LaFevers d/b/a Tote-A-Poke (“Plaintiff”) commenced a civil action, styled *Mick F. LaFevers d/b/a Tote-A-Poke v. First Data Merchant Services Corporation and First Data Merchant Services LLC* in the District Court of LeFlore County, State of Oklahoma, by filing a Petition on July 12, 2017, which is currently pending as Case No.: CJ-17-131.

2. The summons and a copy of Plaintiff’s Amended Petition, filed July 19, 2017, were served for the first time on First Data on August 4, 2017. A copy of the Summons and

¹ In or around January 2016, First Data Merchant Services Corporation changed its name in its corporate registration with the State of Florida to First Data Merchant Services LLC, and, therefore, there is only one Defendant.

Amended Petition are attached to this Notice as Exhibit 1 and constitute all process, pleadings, and orders served upon First Data in this matter. Pursuant to Local Rule 81.2, a copy of the docket sheet for the case pending in the District Court of LeFlore County is also attached hereto.

3. In the state court action, as set forth in the Amended Petition, Plaintiff seeks to recover damages from First Data based upon allegations of fraud, misrepresentation, breach of contract, and negligence related to certain contracts for payment card processing services Plaintiff entered into with First Data. Plaintiff also seeks recovery for unjust enrichment and punitive damages in the Amended Petition.

4. This Court has original jurisdiction over the claims alleged by Plaintiff in the Amended Petition pursuant to 28 U.S.C. § 1332(a) in that this is a civil action between citizens of different states and Plaintiff alleges the amount in controversy exceeds the sum or value of \$75,000. First Data denies all liability to Plaintiff.

Specifically, First Data shows the Court that this civil action is removable for the reasons set forth below:

- a. According to the Amended Petition, Plaintiff, doing business as "Tote-a-Poke", is a resident of Oklahoma. (Amended Petition ¶ 1.)
- b. According to the Amended Petition, First Data is a Florida limited liability company with its principal place of business in Georgia. (Complaint ¶¶ 2-3.) The undersigned confirms First Data is organized and operating under the laws of the State of Florida with its principal place of business in New York.
- c. The Amended Petition alleges an amount in excess of the jurisdictional amount. 28 U.S.C. § 1332(a). Specifically, Plaintiff alleges that the amount in controversy is in

excess of \$75,000, exclusive of interests and costs. (Amended Petition *generally*.) First Data denies all liability to Plaintiff.

d. Accordingly, this case is properly removable pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

5. This Notice of Removal is filed within thirty days after the service of Summons and Complaint on First Data and is therefore timely.

6. The State Court in which this action was commenced is within this Court's District.

7. First Data will promptly file a copy of this Notice of Removal with the Clerk of the District Court of LeFlore County, Oklahoma, and a copy of this Notice of Removal will also be served on the Plaintiff.

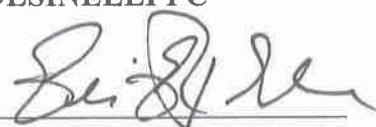
8. First Data reserves the right to assert all defenses, objections, and counterclaims to Plaintiff's Complaint.

WHEREFORE, Defendant First Data Merchant Services LLC f/k/a First Data Merchant Services Corporation prays that the state court action pending as Case No.: CJ-17-131 in the District Court of LeFlore County, State of Oklahoma, be removed therefrom to this Honorable Court.

Respectfully submitted,

POLSINELLI PC

By:


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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via U.S. Mail, postage prepaid, on the following counsel of record this 23rd day of August, 2017 to:

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